(803) 252-0724



June 18, 2004

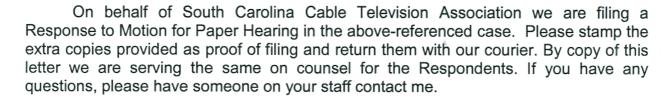
### **VIA HAND DELIVERY**

The Honorable Bruce Duke **Executive Director** Public Service Commission of South Carolina Synergy Business Park, Saluda Building 101 Exeuctive Center Drive Columbia, South Carolina 29210

SCCTA/Farmers Telephone Cooperative, Inc.

Case No. 2004-110-C

Dear Mr. Duke:



**8. C. PUBLIC SERVICE CO** 

Yours truly.

ROBINSON, McFadden & Moore, P.C.

Frank R. Ellerbe, III

FRE/abw Enclosure

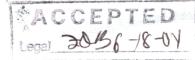
F. David Butler, Esquire (Via Hand Delivery) cc w. enc.:

> Elliott F. Elam, Jr., Esquire (Via fax & U.S. Mail) Gene DuRant, Esquire (Via fax & U.S. Mail) James E. Spearman (Via Hand Delivery)

Nancy Horne (Via fax & U.S. Mail)







#### STATE OF SOUTH CAROLINA

## BEFORE THE PUBLIC SERVICE COMMISSION

DOCKET NO. 2004-110-C

	IN THE MATTER OF:	)		K
,	Farmers Telephone Cooperative, Inc. Request for Approval of New Depreciation Rates for Certain Central Office Equipment	) ) ) )	SOUTH CAROLINA CABLE TELEVISION ASSOC.'S RESPONSE TO MOTION FOR PAPER HEARING	

The South Carolina Cable Television Association ("SCCTA") submits this memorandum in opposition to the Staff's Motion for a Paper Hearing in the proceeding to examine the request of Farmers Telephone Cooperative, Inc. ("Farmers Telephone") for approval of accelerated depreciation rates for a portion of its EWSD Central Office Switches. On June 10, 2004, General Counsel for the Staff filed a motion for a "Paper Hearing." The motion requested that the Commission decide this case on a paper record in lieu of holding an oral hearing on the basis that this matter is "routine". SCCTA opposes the motion for the following reasons:

- 1. When a regulated company such as Farmers Telephone proposes to significantly increase its reportable expenses by dramatically increasing its depreciation rate for its switches and also indicates that there will be no resulting rate increase, it raises the question of whether the company is overearning. Approval of the requested treatment without close examination by the Commission could result in customers being overcharged just as surely as if an unwarranted rate increase was put into effect without examination by the Commission.
- 2. The application submitted by Farmers Telephone offers as the reason for seeking to accelerate the depreciation of its existing switches that Farmers wishes to replace its existing central office switches with "soft switches." As indicated in its pre-filed testimony, soft switches will allow Farmers to offer broadband service over its existing telecommunications infrastructure. Such broadband service competes directly with similar service offered by cable television

companies. Broadband service of this type can also be used to provide video service in direct competition with the cable television offerings of cable television companies. Thus it appears that in this proceeding Farmers is seeking to have its captive telephone rate-payers – through accelerated depreciation – pay for investment intended to provide unregulated and competitive services. This is potentially a classic example of cross-subsidization prohibited by state and federal law.

- 3. The depreciation rate of 25% is unprecedented. SCCTA is informed and believes that F.C.C. depreciation rates for digital switches are based on useful lives of 12 to 18 years. Under these circumstances, a request that the Commission approve depreciation of the same equipment over 4 years is extraordinary and anything but routine.
- 4. Despite the assertion in the Farmers' application (repeated in the Staff motion) that the request would have no effect on the state Universal Service Fund, this request would almost certainly have an effect on the USF. Under the Commission's guidelines for the USF each incumbent LEC, including Farmers, is under an obligation to report its costs. The next time Farmers reports its costs the depreciation rate of 25%, if approved, would drive up the amount of money Farmers could recover from the USF. The potential size of the fund would grow significantly. If other LECs follow Farmers' lead and apply for routine approval of 25% depreciation rates for digital switches the size of the USF could grow exponentially. It is questionable whether the Commission could deny similar treatment to other LECs if it is approved for Farmers. See 330 Concord Street Association v. Campsen, 309 S.C. 514, 424 S.E.2d (Ct.App. 1992) (administrative agency cannot act arbitrarily in failing to follow precedent).

For the foregoing reasons SCCTA believes that the relief sought by Farmers in this docket is extraordinary and not routine, that the matter deserves a full and complete hearing by the Commission, and that the Staff's motion for a paper hearing should be denied.

Respectfully submitted,

ROBINSON, McFADDEN & MOORE, P.C.

Ву

Frank R. Ellerbe, III Bonnie D. Shealy Post Office Box 944 Columbia, SC 29202 (803) 779-8900

Attorneys for South Carolina Cable Television Association

# BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA DOCKET NO. 2004-110-C

In Re:	)
Farmers Telephone Cooperative, Inc. Request for Approval of New Depreciation Rates for Certain Central Office Equipment	CERTIFICATE OF SERVICE  ) ) ) )

This is to certify that I, Angela B. Wedekind, a legal assistant with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the person(s) named below the **South Carolina Cable Television Association's Response to Motion for Paper Hearing** in the foregoing matter by Hand Delivery via courier:

F. David Butler, Esquire
Public Service Commission of South Carolina
Koger Executive Center
Synergy Business Park, Saluda Bldg.
101 Executive Center Drive
Columbia, SC 29210

Dated at Columbia, South Carolina this 18th day of June 04.

Angela B. Wedekind

# BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA DOCKET NO. 2004-110-C

In Re:

Farmers Telephone Cooperative,
Inc.
Request for Approval of New
Depreciation Rates for Certain
Central Office Equipment

CERTIFICATE OF SERVICE

0 :01 KV 81 NNF

This is to certify that I, Angela B. Wedekind, a legal assistant with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the person(s) named below the **South Carolina Cable Television Association's Response to Motion for Paper Hearing** in the foregoing matter by placing a copy of same in the United States Mail, postage prepaid, in an envelope addressed as follows:

Gene DuRant, Esquire Schwartz McLeod DuRant & Jordan 10 Law Range Sumter, SC 29150

Elliott F. Elam, Jr., Esquire South Carolina Department of Consumer Affairs Post Office Box 5757 Columbia, SC 29250-5757

Dated at Columbia, South Carolina this 18th day of June 04.

Angela B. Wedekind